

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

JAMES HILL

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**CRIMINAL ACTION
No. 18-458**

McHUGH, J.

October 29, 2021

MEMORANDUM

This is a renewed motion for compassionate release under 18 U.S.C. § 3582. Petitioner James Hill was convicted by a jury of being a felon unlawfully in possession of a handgun and sentenced to 70 months of imprisonment, which was the lowest end of the guideline range. Mr. Hill entered federal custody in October 2018 and has currently served approximately 39 months of his sentence.¹ He now seeks early release due to his medical circumstances in light of the COVID-19 pandemic. Mot. Comp. Release, ECF 65.

Having reviewed the record, and for the reasons stated below, the motion will be denied.

The statute requires “extraordinary and compelling reasons” to grant release. 18 U.S.C. § 3582 (c)(1)(A)(i). After reviewing Mr. Hill’s motion, along with his medical records, I cannot say that his medical condition is one that rises to that level. *See* ECF 65; Resp. Opp’n, Ex. A, ECF 67. Mr. Hill presents with one condition that, according to the Centers for Disease Control and Treatment (“CDC”), may lead to an increased risk of severe cases of COVID-19—chronic liver

¹ He also has credit for good conduct time of approximately three additional months. Resp. Opp’n Memo. 3, ECF 66.

disease.² *Id.* at 4. He has also been diagnosed with prediabetes and a vitamin D deficiency, neither of which are elevated risk factors. *Id.* at 4, 13. Mr. Hill is forty years old and his medical conditions all appear to be controlled. *See United States v. Whiteman*, No. CR 15-00298, 2020 WL 4284619, at *1 (E.D. Pa. July 27, 2020) (Pappert, J.) (“Given Whiteman's relative youth . . . and his lack of other risk factors, his obesity and high blood pressure fall short of presenting an extraordinary and compelling reason for his release”).

Mr. Hill contracted COVID in December 2020 and reports that he continues to suffer from “long-haul” COVID effects of fatigue, shortness of breath,³ and dizziness. ECF 65 at 4-5, 9. His medical records indicate that his COVID case was asymptomatic and that he has fully recovered. ECF 67, Ex. A at 16, 25. He has provided no medical documentation of his “long-haul” symptoms and does not explain how this syndrome would increase his risk of severe illness or death should he become re-infected.

Mr. Hill is housed at FCI Schuylkill, which currently has no active cases among prisoners and only two active cases among staff.⁴ In addition, over seventy percent of the total prisoner population at FCI Schuylkill is fully vaccinated.⁵ Given these circumstances, the risks to Mr. Hill’s health do not present an extraordinary or compelling reason to justify compassionate release.

² CENTERS FOR DISEASE CONTROL AND PREVENTION, PEOPLE WITH CERTAIN MEDICAL CONDITIONS, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.

³ The records indicate that Mr. Hill has a self-reported history of asthma. ECF 65-1 at 11, 86. To the extent that Mr. Hill requires medical treatment to control his asthma, BOP is obliged to provide it. *Estelle v. Gamble*, 429 U.S. 97, 103, 97 S. Ct. 285, 290, 50 L. Ed. 2d 251 (1976) (noting that the government is obligated to provide medical care for those whom it is punishing by incarceration).

⁴ FEDERAL BUREAU OF PRISONS, COVID-19, <https://www.bop.gov/coronavirus/> (last visited October 22, 2021).

⁵ *Id.*

In addition, Mr. Hill now has access to the vaccine which greatly reduces the health risks of COVID-19.⁶ The BOP has offered vaccines to every incarcerated person in BOP-managed institutions. ECF 66 at 8. BOP will continue to offer vaccines to new prisoners or to those prisoners who initially declined but change their mind and seek vaccination “as expeditiously as possible as supplies are available.” *Id.* The widespread availability and reported efficacy of vaccination undermines Mr. Hill’s compassionate release motion. As I have previously held, “the available data confirms the extreme effectiveness of the vaccines.” *United States v. Jones*, 2021 WL 1561959, at *1 (E.D. Pa. Apr. 21, 2021). *Accord*, *United States v. Lewis*, No. CR 19-235, 2021 WL 3537153, at *2 (E.D. Pa. Aug. 11, 2021) (Savage, J.) (denying relief where prisoner alleged long-haul COVID symptoms and had declined the vaccine).

Although Mr. Hill’s fears about the pandemic are understandable, the Court of Appeals has made clear that “the mere existence of COVID-19 in society and the possibility that it may spread to a particular prison alone cannot independently justify compassionate release, especially considering BOP’s statutory role, and its extensive and professional efforts to curtail the virus’s spread.” *United States v. Raia*, 954 F.3d 594, 597 (3d Cir. 2020).

Aside from Mr. Hill has failing to demonstrate “extraordinary and compelling” reasons for release at the outset, an analysis of all pertinent factors, including those set forth in 18 U.S.C. § 3553(a), further weighs against release. Mr. Hill’s possession of a loaded weapon is concerning, particularly given the pervasive problem of gun violence in Philadelphia. He has served approximately 39 months out of a 70-month sentence. His release in the absence of compelling

⁶ Mr. Hill’s medical records contain a signed vaccine refusal form. ECF 65-1 at 1. Mr. Hill alleges that his signature was forged and that he was never offered a vaccine. ECF 65 at 5. The Court will intervene if Mr. Hill seeks and is denied a vaccine.

circumstances would not reflect the seriousness of his crimes, promote respect for the law, or adequately deter him from future criminal behavior.

For these reasons, the motion will be denied.

/s/ Gerald Austin McHugh
United States District Judge